

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

UNITED STATES OF AMERICA,)	CR 10-08-H-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
BEN ALAN DIVELY,)	
)	
Defendant.)	
_____)	

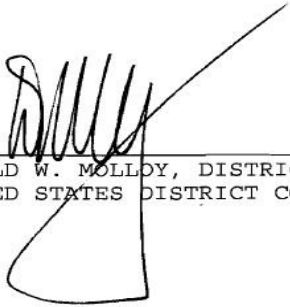
United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on June 15, 2010. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Dively’s guilty plea after Dively appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of credit union embezzlement, one count of money laundering, and one count of identity theft as alleged in the Indictment filed against him.

I find no clear error in Judge Lynch’s Findings and Recommendation (dkt # 16) and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

DATED this 14th day of July, 2010.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT